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For distribution to relevant parties within your firm

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Discipline

Discipline Penalties imposed on Michael Sullivan – Violations of By-law 29.1

Person Disciplined A Hearing Panel appointed pursuant to By-law 20 of the Investment Dealers Association of Canada (the “Association”) has imposed discipline penalties on Michael Sullivan, at the material time a Registered Representative Options employed by the Summerside, Prince Edward Island branch office of TD Securities Inc. (“TD”), a Member of the Association.

By-laws, Regulations, Policies Violated On October 18, 2005 the Hearing Panel considered, reviewed, and accepted a Settlement Agreement negotiated between staff of the Enforcement Department of the Association and Mr. Sullivan.

Pursuant to the Settlement Agreement, Mr. Sullivan admitted that during 2001 to 2003 he engaged in conduct unbecoming, contrary to Association By-law 29.1 by facilitating a loan between clients and Mr. Sullivan’s son’s company, without disclosing same to TD; by failing to report a client’s complaint to TD; and by indicating to a client that he would make any account losses right.

Penalty Assessed The discipline penalties assessed against Mr. Sullivan are:

- a fine in the amount of \$25,000;
- close supervision for 6 months upon any subsequent registration; and,
- to rewrite and pass the Conduct and Practices Handbook exam.

Mr. Sullivan is also required to pay costs of \$10,000 towards the Association’s costs of the investigation and prosecution.

Summary of Facts **Registration:**
Mr. Sullivan was approved as a Registered Representative Options in the Summerside, Prince Edward Island branch office of TD from June 2001 until his termination in February 2004. Prior to that Mr. Sullivan was registered with RBC Dominion Securities Inc. (“RBCDS”) from late 1996 to June 2001.

The investigation was initiated as a result of a Notice of Termination received by the Association from TD in February 2004. The Association also investigated a subsequent complaint made to TD by clients GM/SM.

GM/SM complaint:

GM and SM were husband and wife and had been clients of Mr. Sullivan for some time. They were friends of Mr. Sullivan as well and had known him since late 1999 or early 2000.

\$75,000 loan requested from clients:

In March 2001, GM and SM were getting ready to go on a sailing vacation with Mr. Sullivan and his wife. Mr. Sullivan contacted GM on the morning of the departure and asked him for a loan of \$75,000. It was GM's understanding that the loan was for Mr. Sullivan's son Philip Sullivan ("Philip") or for a company owned by Philip. Mr. Sullivan's recollection was that the company owned by Philip called Two Plus Two Jewellery Ltd. ("Jewellery Ltd.") needed working capital.

Mr. Sullivan told GM and SM that Philip needed the money urgently. GM and SM agreed to the loan, which was given that day to Jewellery Ltd. (the "loan"), before going to the airport for their vacation.

GM signed a promissory note dated March 23, 2001, as lender in the amount of \$75,000 (the "note"). The note was signed by Philip on behalf of Jewellery Ltd. and by Mr. Sullivan as guarantor of the loan. Interest was payable at 1% per month. Security for the note was to be delivery of 40,000 shares of Kasten Chase Applied Research Ltd. ("KC") from an account at RBCDS held by Jewellery Ltd.

The loan was not repaid within one year as intended. GM and SM agreed that the date for repayment of the loan could be extended. At their request from time to time, GM and SM received further shares of KC as the value of the shares kept decreasing. GM and SM did receive interest payments on the loan. GM and SM felt uncomfortable mentioning the loan, given that Mr. Sullivan was their Registered Representative and friend.

Non disclosure to the Member firm:

Mr. Sullivan did not advise RBCDS or TD of the loan at any point in time until the clients complained to TD in February 2004.

Repayment of the loan:

GM and SM received partial repayment of the loan in the amount of \$65,000 in late February 2004, by way of a cheque received from Jewellery Ltd. The remaining \$10,000 was repaid by way of a cheque from Jewellery Ltd. in late May 2004.

Loan not for Respondent's personal use:

The loan was not for Mr. Sullivan's personal use. The loan was a personal loan to his son's company and was not made as an investment in Jewellery Ltd.

RM complaint:

RM (no relation to GM and SM) had known Mr. Sullivan for over 20 years. At one point RM lived in the basement of Mr. Sullivan's home. He had been a client of Mr. Sullivan since the late 1990's.

In the early spring of 2002, RM owned 43,466 shares of Kasten Chase Applied Research Ltd. ("KC"). He asked Mr. Sullivan what was KC's current share price. Mr. Sullivan told him that it was at \$3.10.

On or about March or April 2002, RM asked Mr. Sullivan to sell all of his KC shares at the price of \$3.10. RM thought that the order was placed in March or April. Mr. Sullivan's recollection was that the order was placed more towards the end of April. Mr. Sullivan told RM that he would sell the KC shares in 3 separate blocks at \$3.15, \$3.10 and \$3.05. RM agreed.

Kasten Chase shares not sold:

KC had traded at or over \$3.18 daily in March 2002. KC traded at or above \$3.10 on various dates in early April 2002. After April 18, 2002, KC did not trade at \$3.10 again that month and has since dropped.

Mr. Sullivan later told the Association that he did not want to place the order all at once as it was a thinly traded stock. Mr. Sullivan maintains that KC did not trade at the requested price after his discussion with RM and so he did not place the order. Mr. Sullivan thought that the price of KC would increase, and at that point he could effect the trade.

Failure to report client RM's complaint:

On or about May 2002, RM discovered that his KC shares had not been sold. When RM complained to Mr. Sullivan and questioned him about the transaction, Mr. Sullivan admitted that he had not sold the KC shares. Mr. Sullivan told RM that he thought the price of KC shares would increase to \$3.10 by September 2002.

Mr. Sullivan did not report RM's complaint to TD at any time.

Promise to compensate client RM:

RM told Association staff that Mr. Sullivan told him that he would make up any difference between the final sale price and \$3.10, in the event that the KC share price did not rally back to \$3.10. Mr. Sullivan admitted to Association staff that he had told RM not to worry about it and that he (Mr. Sullivan) would look after it. Mr. Sullivan also admitted to TD in January 2004 that he had told RM that he would "make it right with him." RM thought that this promise occurred on or about May 2002. Mr. Sullivan thought that this promise occurred sometime in 2003.

Further discussions with Mr. Sullivan:

RM met with Mr. Sullivan regarding the issue of compensation for the KC shares in the fall of 2003. RM was provided with a computer screen print out of his account. Mr. Sullivan made handwritten notes on the printout which indicated a price of \$3.10 as well as the figure of \$134,000. RM took comfort from this document that he would still ultimately be compensated. According to RM he agreed to extend the time to be repaid until April 2004.

On or about January 2004, Mr. Sullivan advised RM that he could not compensate him. RM complained to TD in January 2004.

Compensation by TD:

A correcting trade was processed through RM's account by TD in February 2004. It indicates a sale of 43,466 shares of KC at a price of \$3.10, for total proceeds of \$134,744.60.

Other:

Mr. Sullivan has no previous disciplinary history.

Mr. Sullivan has not been registered with the Association since February 2004.

The Hearing Panel's reasons will be posted on the Association's web site when they become available.

Kenneth A. Nason
Association Secretary